THE EMERGENCE OF INDIVIDUAL RIGHTS IN EUROPE: A HISTORICAL RECAPTURE

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Abstract

The modern conception of individual rights took many centuries to emerge in its current state. The Europeans trace the origin of representative traditions of democratic political system and many aspects of their culture to ancient Greek and Roman civilizations, collectively referred as the 'Western Heritage'. The idea germinated during the intellectual, cultural, and religious reform movements, and this growth took speed during the eighteenth and nineteenth centuries. The movements of Renaissance, Reformation and Humanism played a key role in the emancipation of people. This paper recaptures the history of the origin and development of individual rights within European context.

Key words: Renaissance, Reformation, Humanism, English Bill of Rights, French Revolution, Declaration of Independence, Declaration of Rights of Man and Citizen

Renaissance, Humanism and the Reformation
During the early fourteenth to mid eighteenth centuries, Europe went through remarkable changes that transformed European polity altogether. These were the times both of far- reaching cultural and political construction as well as of massive physical sufferings due to disease and war. Bubonic plague killed an estimated two-fifths of European population by the mid-fourteenth century, which was a disaster of unprecedented magnitude. The bubonic plague had already been preceded by a hundred years of war between England and France. The power of the Pope declined and strong monarchies started to emerge as a consequence of socio-economic and political developments. Since the rulers were commanding greater economic resources, they steadily gained control over ecclesiastical lands. The Roman Church felt threatened, but, since the monarchies were gaining economic strength and intellectual awakening due to the explorations and interactions with other civilizations, the Church was unable to continue to control monarchies and consequently societies.

During the fourteenth century, Europe experienced a great cultural resurgence called as the Renaissance (literally meaning revival or rebirth). The rebirth was primarily in the domains of education and culture in accordance with the newly discovered Greek and Latin writings. The emergence of colleges and universities followed the discoveries of knowledge across Western Europe. The renaissance caused the "educated Europeans to develop new attitudes about themselves and the world around them".[2] The renaissance first started in the city states of Italy. Due to its unique geographical location, Italy had escaped the economic disaster of late middle ages that had wrought havoc upon other countries of Europe.[3] The Italian "towns remained important centers of Mediterranean trade and boosted their production of textiles and luxury goods".[4] Italians, more than other Europeans, were inclined towards traditions and antiquity which made them receptive towards intellectual and scientific discoveries. It was due to their proximity and attachment to ancient Roman buildings, amphitheaters and arches that constantly reminded them of their great heritage. Furthermore, the Italians remained in close contact with the Byzantine Empire where scholars were preserving the ancient Greek heritage.

As the Italians discovered ancient works of Greek scholars and intellectuals, their interest in antiquity and classical writings became a very precious commodity for them. This interest in the classics and importance of human beings as the centers of human experience was called Humanism. Humanists, the scholars who promoted humanism, developed their interest and understanding of Greek and Latin languages, studied old manuscripts and tried to copy the classical writing style.[5]

For the fulfillment and achievement of the Greek ideals, humanists started opening schools to teach social and human studies which included history,

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[2] Mounir Farah and Andrea Berens Karls, *World History: The Human Experience* (New York: MacGraw Hill, 1997), 404.

[3] The terms 'middle age' and 'medieval age' are interchangeably used in place of 'dark ages'. The Dark Ages was used by the Enlightenment thinkers and philosophers to denote an age between the fall of Roman Empire and the earliest discoveries of Renaissance. To consign a period of history by a particular taxonomy like that of 'Dark Ages' is to deny all that was of any value in that era.

[4] Farah and Karls, *World History*, 404.

[5] Farah and Karls, *World History*, 404.

philosophy and classical languages. These schools became so popular that the wealthiest Italians started sending their children in these schools rather than the schools operated by the clergy. The humanists experimented with new literary forms too. Some of the them wrote in the vernacular languages. In this way, the literary and intellectual works became more and more accessible to the common people.

The renaissance values of secularism and humanism gave birth to widespread criticism of the extravagance of the Catholic Churches. The educated Europeans by about 1500s were calling for a reformation, a change in the Church's way of teaching and practicing. This movement for reform in Church led to schism in Germany and produced a new form of Christianity called Protestantism.

Before the invention of Gutenberg's press, books had to be copied by hand which was a tedious and time-consuming method. Resultantly, books use to be rare commodity and only wealthy had access to them. The commoners could not purchase them because books were out of their purchasing power. With the invention of movable metal type printing press, books could be reproduced much faster and the process became less expensive. Consequently, more people could read and get inspiration from these books. All this, in turn, made people question age-old traditions and yearn for a change. Thus, directly as well as indirectly the revolution in printing books contributed remarkably in embedding the idea of individual rights.

The protestant reformation destroyed the idea of a single religious authority and taught that "each individual could make his judgment of religious truth through a study of the scriptures".[9] Such an ideological positioning was made "possible through three interrelated developments: the technology of printing, translations of the scriptures into regional languages, and rising rates of literacy".[10] Besides religious conviction, non-religious factors were also involved in the spread of reformation. For instance, German princes often accepted Protestantism to consolidate their power. They declared Lutheranism and Calvinism as state religion of their small states thereby seizing lands and wealth owned by the Catholic

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[9] Ernest W. Jones, *Socio-religious Reform Movements in British India* (Cambridge: Cambridge University Press, 2006), 19.
[10] Jones, *Socio-religious Reform Movements in British India,* 19.

Church. Secondly, towns people were attracted towards the new faith as it supported their trade and business practices. Peasants, considerably, sided with Protestantism using it as a form of protest against Catholic nobles. In short, weakening of the religious dominance strengthened the idea of individual rights in Europe.

Enlightenment, the philosophers and the literature

It was during the eighteenth century that a certainty started to spread within European domains and particularly in the literate circles of the European society that "change and reform were both possible and desirable".[11] Such an attitude might seem commonplace now but it started to develop only after the end of seventeenth century. The movement by the intellectuals and writers that facilitated the ideas of change and protection of individual rights was called the Enlightenment. The leading voices of this movement were "confidence in the human mind inspired by the Scientific Revolution" and "faith in the power of rational criticism to challenge the intellectual authority of tradition and the Christian past".[12] The writers of this period were convinced that human beings could comprehensively understand the working of physical nature and can use this for material and moral improvement of human life.

The writers and intellectuals who fostered new ideas and attitude towards life and who strived for change were philosophes. They might not be philosophers in the formal sense of the word but "they were people who sought to apply the rules of reason and common sense to nearly all the major institutions and social practices of the day".[13] Most famous of these philosophers were Voltaire (b. 1694- d. 1778), Montesquieu (b. 1689- d. 1755), Rousseau (b. 1712-d. 1778), Diderot (b. 1713-d. 1784), David Hume (b. 1711-d. 1776), Edward Gibbon (b. 1737-d. 1794), Adam Smith (b. 1723- d. 1790), Bentham (b. 1748- d. 1832), and Kant (b. 1724-d. 1804).

According to Peter Gay, this objective of philosophes included "freedom from arbitrary power, freedom of speech, freedom of trade, freedom to realize one's talents, freedom of aesthetic response".[14] In human history,

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[11] Donald Kagan, Steven Ozment, and Frank M. Turner, *The Western Heritage* (New York: Macmillan Publishing Company, 1987), 597.
[12] Ibid.
[13] Ibid.
[14] Peter Gay, *The Enlightenment: An Interpretation,* Vol. 1 (New York: Knopf, 1967), 4.

no other combination of ideas has influenced so much to shape the modern world as these have done. The medium through which they spread their powerful message included books, plays, novels, philosophical treatises, magazines and newspapers. The main emphasis of these medium and their message had been the defense of individual rights, heretofore, not commonplace anywhere in the world.

French Revolution—Liberty, Equality, and Fraternity

The most important contribution of French Revolution in the domain of individual rights was the 'Declaration of the Rights of Man and Citizen'. It proclaimed that "men are born and remain free and equal in rights".[15] The natural human rights as proclaimed in Declaration were "liberty, property, security, and resistance to oppression".[16] It was the duty of governments to take care of these rights. Moreover, sovereignty was declared to be residing in the whole nation and its representatives. The citizens were deemed to be equal before law and they were to be "equally admissible to all public dignities, offices, and employments, according to their capacity, and with no other distinction than that of their virtues and talents".[17]

Another important principle included in this document was that trial would follow the due process of law, and innocence would be presumed until the guilt had been established . Religious freedom was guaranteed to all citizens.. One significant point was that property was declared to be an "inviolable and sacred right".[18] Although these statements were abstract in nature yet these, on the one hand, were in accordance with the intellectual spirit of the Enlightenment age while, on the other hand, were directed against specific abuses prevalent in the French polity at that time.

England, Magna Carta and the English Bill of Rights

The fundamental difference between England and the other countries regarding the development of institutions and codification of laws to protect individual liberties had been that laws were enacted due to the

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[15] George Lefebvre, *The Coming of the French Revolution* (Princeton: Princeton University Press, 1967), 221-23.

[16] Ibid.

[17] Ibid.

[18] Ibid. For a detailed discussion on French Revolution's impact on individual rights, see David S. Mason, *A Concise History of Modern Europe: Liberty, Equality, Solidarity* (London: Rowman and Littlefield, 2004), 23-29.

pressure exerted from English people, while in other countries laws were formulated prior to the people's demands. In this respect, the English socio-cultural, economic and political conditions were far advance than their legislation and these factors necessitated legislation for civil liberties and individual rights.[19] This factor was the hallmark of England's smooth running of the socio-political system and development of institutions which came to be known as Anglo-Saxon legal morality. Although the relations between people in Europe were based upon feudal system yet freedom crept in through the new forms which were rising up. Besides the "owners of land and those who worked on it, the lords and their serfs, there were other classes of people—artisans and traders".[20] Magna carta, "a relic of Medieval times" was a glorious creation "which gave Britain a new line in its constitutional history".[21]

The artisans and traders were not part of feudal system and as a result were not tied up in such a relationship. As the trade activity increased in peace times and the importance of master craftsmen and artisans grew, they became wealthy and the barons and lords went to them to borrow money. They lent them money but in exchange for this demanded certain privileges which were gradually allowed to them. These privileges added to their strength. Moreover, the artisans and craftsmen "formed guilds and associations and the headquarters of these guilds became the guild-halls" and the town-halls.[22] These cities that were growing up became rivals of the power of feudal lords. A new class was growing in them, the merchants and trading class, which were wealthy enough even to defy the nobles. It was a long struggle, and often the king, afraid of the power of his own nobles and barons, sided with the cities.

In England an event took place about the same time and this event was the signing of Magna Carta (the great charter) by King John in 1215 A. D.[23]

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[19] With a peculiar political genius the English people consistently refused to tolerate either the absorption of the power of the monarchy by the nobility or the infringement of the rights of nobility by the monarchy.

[20] Jawaharlal Nehru, *Glimpses of World History* (New Delhi: Penguin Classics, 2004), 191.

[21] Rabia Umar Ali, "Medieval Europe: The Myth of Dark Ages and the Impact of Islam", *Islamic Studies,* Vol. 51, Number 2 (2012): 155-168.

[22] Nehru, *Glimpses of World History*, 191.

[23] The gradual building of a sound English constitutional system in the Middle Ages was in danger of going to be frittered away if the Monarch overstepped the fine line dividing necessary strength from outright despotism. This danger was acutely felt during the rule

Magna Carta was the result of negotiations between the King and his nobles as the latter had rebelled to preserve the rights and liberties that were part of the feudal system. The nobles felt that "the King had violated this custom by his arbitrary wielding of royal authority as evidenced by his taxation policy, military adventures, meddling with the inheritance of nobles, raising a mercenary army, and relying on foreign favorites from France".[24] King John, confronted by prospects of rebellion, offered to make England a fief of the Pope. The Pope readily accepted this offer and excommunicated all enemies of the King. Still the nobles enjoyed more popular support, than the King, in England and especially in London. Eventually the rebels drafted a charter and demanded the King to sign it. Thus "sensing the popular mood and desirous of buying time", King John signed this charter.[25]

The royal signature on Magna Carta "set a precedence that came to define the constitutional and political struggle from 1215 to 1688".[26] In agreeing to such a formal contract that limited royal power King John had accepted "the legal right of the aristocracy to dispute and question the monarch's conduct".[27] If the King violated the contract, the nobles had the legal and moral sanction to resist the King with all means. This was an unprecedented and hitherto unimaginable happening which established that law was not only the whim and wish of the monarch but an independent power in its own right. The words of law contain an impersonal authority and power which is independent of the king. Once legislation is carried out and passed, it cannot be undone by rulers or nobles.

The Magna Carta was followed by another law passed in 1217 called the Forest Charter which curtailed the King's arbitrary power over the forests. Magna Carta was issued thirty eight times, initiated a legitimate opposition

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of King John. The English nobility, therefore, forced the King's recognition of Magna Carta which affirmed the traditional rights and personal liberties of free men against the royal authority. The document has, in line with its contribution, been enshrined in English constitution since then.

[24] Ilhan Niaz, *An Inquiry into the Culture of Power of the Subcontinent* (Islamabad: Alhamra Publishers, 2006), 132.

[25] Ibid, 133.

[26] Ibid.

[27] Ibid.

to the crown and proved to be a law that kings dared not break.[28] This charter was comprised of sixty three articles. One of its articles says:

> A free man shall not be fined for a small offence, except in proportion to the gravity of the offence; and for a great offence he shall be fined in proportion to the magnitude of the offence, saving his freehold; and a merchant in the same way, saving his merchandise; and the villain shall be fined in the same way, saving his wainage, if he shall be at our [i.e., King's] mercy; and none of the above fines shall be imposed except by the oaths of honest men of the neighborhood….[29]

The charter, moreover, recommends that "no free man shall be taken, or imprisoned, or dispossessed, or outlawed, or banished, or in any way injured, nor will we go upon him, nor send upon him, except the legal judgment of his peers, or by the law of the land".[30] The King conceded that "to no one will we sell, to no one will we deny or delay, right or justice",[31] and "neither we nor our bailiffs will take the wood of another man for castles, or for anything else which we are doing, except by the permission of him to whom the wood belongs…."[32]

This process of legislation in favor of personal liberties progressed in such a manner in England that "in 1688 there emerged on its soil a rationally derived constitutional order, or State of Laws, based upon the supremacy of representative institutions and private enterprise".[33] When James, under the guise of policy of enlightened toleration, was actually seeking to subject all English institutions to the power of the monarchy, Whig and Tory

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[28] Winston Churchill, *A History of the English Speaking Peoples,* Vol. 1, *The Birth of Britain* (London: Cassell, 2002), 200.

[29] James Harvey Robinson (ed.), *Readings in European History,* Vol.1 (Boston: Atheneaum, 1904), 236.

[30] Kagan, Ozment, and Turner, *The Western Heritage*, 286.

[31] Ibid.

[32] Ibid.

[33] Niaz, *An Inquiry Into the Culture of Power of Subcontinent,* 7; See also, Ilhan Niaz, *Old World Empires: Cultures of Power and Governance in Eurasia* (Karachi: Oxford University Press, 2014), 455-512. For the uneven development of societies on Eurasia and the other continents, see Jared Diamond, *Guns, Germs and Steel: A Short History of Everybody for the Last 13000 Years* (London: Vintage Books, 2005).

members of parliament formed a coalition and invited William III of Orange to invade England to preserve 'traditional liberties'. William of Orange arrived with his army in November 1688 and was received without opposition from the English people. In the face of such a sure defeat "James fled to France in the protection of Louis IV".[34] With James gone, the parliament declared the throne vacant and proclaimed William and Mary the new monarchs in 1689. William and Mary, in return, recognized a Bill of Rights that limited the power of monarchy and guaranteed the civil liberties of the English privileged classes.[35] From then on, England's monarchs would rule by the consent of parliament and would be subject to law.

On the previous coronation ceremonies, the kings and queens used to swear to observe the laws and customs established by their royal ancestors. However, in 1689, William and Mary swore a quite different oath. They pledged that they would govern the people of England "according to the statutes in Parliament agreed upon, and the laws and customs of the same".[36] It meant that they submitted their loyalty to the people of England and the statues of Parliament because it was the representative body of the citizens of state of laws. This oath established the fact that people of England are sovereign and their authority is exercised through the institution of Parliament by chosen and hereditary representatives. Establishment of state of laws meant that individual rights were upheld as inviolable in England.

The establishing of political parties in England also owes its origin to the constitutional process that took place there. The opposition to Catholicism became the first reason for the emergence of parties because parties grew out of a debate over the issue of succession. Charles had no legitimate children and the thrown was expected to go to James II, brother of Charles. James was famous as a devout Catholic and revival of Catholicism was thus feared under the patronage of James. It happened that parliament tried to pass the Exclusion Act which would have excluded James from becoming king. During this conflict, the members who wanted James excluded were

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[34] Kagan, Ozment and Turner, *The Western Heritage,* 458.
[35] The Bill of Rights was read to William and Mary in 1688. The Glorious Revolution, however, established limited monarchy. Having passed the Bill of Rights the English kings retained real power but they ruled by consent of Parliament and were subject to law.
[36] Farah and Karls, *World History: The Human Experience*, 542.

known as the Whigs while the defenders of hereditary monarchy were known as the Tories. In a historical compromise, the Tories promised to defeat the Exclusion Bill by accepting a more significant bill by the Whigs. The bill supported by the Whigs carried the principle of Habeas Corpus. It became law through which a person could not be held in prison by the king or anyone else without just cause or without a trial by adopting due process of law. It proved to be a giant step that increased individual rights by reducing the use of arbitrary power by royal authority.

The Glorious Revolution of 1688 and the Bill of Rights of 1689 established a comprehensive framework of government by and for those who had strived for it. After the Glorious Revolution, "England settled down in the eighteenth century to government by Parliament".[37] It received classic philosophical justification in John Locke's *Second Treatise of Government* in which Locke described the relationship of a king and his people in terms of a bilateral contract. If the king broke that contract, the people—by whom Locke meant powerful and the privileged ones— had the right to depose him. Although it was "neither in fact nor in theory, a 'popular' revolution such as would occur in France and America a hundred years later, the Glorious Revolution did establish in England a permanent check on monarchical power by the classes represented in parliament".[38] Thereby, the people of England received a package of reforms in the form of English Bill of Rights which enumerated a long list of liberties for the common citizens of England.

According to the Bill of Rights, the king could not raise taxes or maintain army without the prior consent of the Parliament. Moreover, he could not suspend laws. It was declared that the parliament would meet more frequently and that the freedom of debate in sessions of parliament would be preserved. The Bill of Rights guaranteed many individual rights as well. For example, it guaranteed the right to trial by jury, "outlawed cruel and unusual punishment for a crime, and limited the amount of bail money that could be required for a person to be temporarily released while awaiting trial".[39] The citizens were granted a right to appeal to the monarch and speak freely in the parliament.

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[37] For classic study, see Barrington More, *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (New York: Penguin Books, 1981), 21.

[38] Kagan, *The Western Heritage,* 460.

[39] Farah and Karls, *World History: The Human Experience*, 543.

Impact of Scientific and Industrial Revolution on Individual Rights

It was in the year 1789, that a young British industrial worker, Samuel Slater, boarded a ship that carried him New York. He listed his occupation as farmer in the record of ship. Slater was, actually, a smuggler although he looked like a farmer. He was stealing a valuable British commodity—industrial knowledge. He went to America with knowledge of how to build an industrial spinning wheel. Having reached America, he introduced this technology and laid the foundation of industry in America. Great Britain, by keeping technologies secret and encouraging domestic industries, had become most productive country in the world. To maintain this monopoly, the British Parliament had passed laws that restricted the flow of knowledge about machines as well as technical labour to other countries. Another law declared the export of machinery as illegal. However, though "Industrial Revolution began in England but spread quickly to the rest of the world".[42] The early important inventions in England were followed by others elsewhere. Invention of steamship revolutionized transportation, reaper revolutionized harvesting of wheat and chemical fertilizers revolutionized agricultural production. The "railroad spread" like spider web throughout Europe, "linking the continent together".[43] Queen Victoria ascended the throne in 1837 and the ensuing sixty four years of her rule is named as the Victorian Age. During this age, "the newly emerging middle class was coming to dominate British society and shape its system of values".[44] Factories were producing luxury goods, hitherto accessible only to aristocracy, for middle class. Libraries, theatres and musical clubs were spreading in the cities to provide entertainment to middle class and most major cities had their newspapers. The Romantic writers and intellectuals, Johann Goethe of Germany, Victor Hugo of France, Alexander Pushkin of Russia and English poets Tennyson, Coleridge, Wordsworth and Byron struggled with the ambiguous results of "the Industrial Revolution and the tensions between tradition and change".[45]

Where industry had generated enormous wealth and progress, it had given birth to unprecedented misery and alienation. The middle class gained strength and luxuries while the working class experienced large scale

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[42] Mason, *A Concise History of Modern Europe*, 44.

[43] Mason, *A Concise History of Modern Europe*, 44-45.

[44] Mason, *A Concise History of Modern Europe*, 45.

[45] Ibid, 44.

misery. Due to this working class misery, the nineteenth century witnessed a proliferation of doctrines and movements. The words "liberalism", "radicalism", "socialism", and "nationalism" came into usage in English language between 1820 and 1850.[46] In 1848, Karl Marx and Friedrich Engels produced their famous *The Communist Manifesto* which enshrined "Workers of all countries, unite!" became an unusual inspiration for the workers and peasants throughout Europe.[47] All these movements, doctrines and isms were the products of disparities and inequalities. Resultantly, these intellectual ideas and upheavals worked enormously to uphold individual rights in Europe.

Conclusion

The idea that individuals do have inalienable rights that cannot be snatched away from them originated and developed over many centuries in Europe. Its development and systematization were a European concept although its parallel developments, with different mode and strength, have been in other geographical regions in accordance with their pertinent socio-economic contexts. Europeans had to struggle in many ways to get the individual rights recognized by the states and adopted in constitutions. Institutionalization of individual rights then permeated in norms and values of European societies.

Individual rights were attained by the Europeans through a long-drawn struggle against the dominance of Roman Catholic Church and the monarchies. The first milestone in this struggle was renaissance. The renaissance and its allied movement of humanism brought the human beings to the centre stage. The people were taught by the intellectuals that living conditions of this world need improvement and human life is the most valuable thing on earth. This momentum was furthered by the movement of religious reformation. The invention of printing press made the propagation of message of reformation easy. Reformation was perceived by the Europeans as a liberation movement against illiteracy, poverty, dogma, and countless restrictions on human life.

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[46] Ibid.

[47] For detailed analysis, see Karl Marx and Friedrich Engels, "Manifesto of the Communist Party" in Donald C. Abel, *Fifty Readings in Philosophy* (New York: McGraw Hill, 2004), 462-481.

The philosophers and writers of Enlightenment era propounded the ideals of reform and challenged traditional cultural authority. Enlightenment was the result of confidence given to man by the scientific worldview. They urged for the application of rationalism to social and political life of citizens. They believed in framing laws of society and economy to improve the human condition. They yearned for political reform and replacement of monarchies with constitutional governments. Resultantly, the idea of change was ascribed positive value with economic growth and development attached to it. The French revolution upheld the rights of man and citizen replacing the monarchy, the aristocracy and the church in social and political sphere.